

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AMERISURE INSURANCE COMPANY,) Case No.: 1:20-cv-01134-DAD-JLT
)
Plaintiff,) FINDINGS AND RECOMMENDATIONS TO
) DISMISS DEFENDANT MIDAS SOLUTIONS
) INCORPORATED PURSUANT TO RULE 4(M)
)
v.)
R&L CARRIERS, INC, A CORPORATION,) [FOURTEEN-DAY OBJECTION DEADLINE]
et al.,)
Defendants.)
)

On December 18, 2020, the court issued an order to plaintiff to show cause why Defendant Midas Solutions Incorporated should not be dismissed for failure to comply with Rule 4 of the Federal Rules of Civil Procedure. (Doc. 16.) Plaintiff has not responded to the order to show cause and the time period for doing so has expired.

DISCUSSION

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Well over 90 days have passed since the complaint was filed, and the plaintiff has not shown good cause for failing to serve Defendant Midas Solutions Incorporated. The court's order to show

1 cause cautioned the plaintiff that “[f]ailure to comply will result in a recommendation that this
2 defendant be dismissed.” (Doc. 16 at 2.) Accordingly, dismissal is warranted for the claims against
3 Defendant Midas Solutions Incorporated pursuant to Rule 4(m). Dismissal pursuant to Rule
4(m) would be without prejudice.

5 **RECOMMENDATION**

6 Based upon the foregoing, the court RECOMMENDS that Defendant Midas Solutions
7 Incorporated and all claims against it be dismissed without prejudice from this action.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local
10 Rules of Practice for the United States District Court, Eastern District of California. Within fourteen
11 days after being served with these findings and recommendations, plaintiff may file written objections
12 with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and
13 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
14 waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991);
15 Wilkerson v. Wheeler, 772 F.3d 834, 834 (9th Cir. 2014).

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17 IT IS SO ORDERED.

18 Dated: January 8, 2021

19 /s/ Jennifer L. Thurston
20 UNITED STATES MAGISTRATE JUDGE

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